

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-219790.3 **DATE:** October 29, 1985
MATTER OF: Greyhound Support Services, Inc.

DIGEST:

Protest which attempts to reassert an objection to an agency procurement action which was properly dismissed as untimely in the first instance is untimely as well and will not be considered.

Greyhound Support Services, Inc. protests the award of a contract to the incumbent contractor under request for proposals (RFP) No. JC IX-85-18, issued by the Department of Labor. The procurement is for the continued operation of the Phoenix, Arizona, Job Corps Center. We dismiss the protest as untimely.

Greyhound had originally protested to this Office on August 2, 1985, alleging that its proposal had been improperly rejected as technically unacceptable and that the agency was favoring the incumbent. Because it was clear from the firm's submission that the basis of protest was known to the firm not later than June 11, we dismissed the protest on August 5, in accordance with our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1985), which require that protests be filed within 10 working days after the basis of protest is known or should have been known.

We denied Greyhound's subsequent request for reconsideration of our August 5 dismissal by our decision in Greyhound Support Services, Inc., B-219790.2, Aug. 28, 1985, 85-2 CPD ¶ 242. In that decision, we rejected Greyhound's attempt to characterize its original protest as really a challenge to the agency's proposed award to the incumbent contractor. We noted that, even if we accepted Greyhound's characterization, the only basis ever stated by the firm for objecting to the proposed award was that the firm's own proposal had been improperly rejected. Since that basis of protest was clearly untimely, we found no reason to reconsider our prior

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dismissal. We emphasized that a protester may not wait until the contract is actually awarded before it protests an agency action of which it has long been aware. Id. at 2.

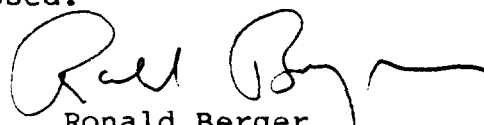
Greyhound now protests the September 30 contract award by asserting that the agency extended preferential treatment to the incumbent contractor, that the procurement process was not open or fair, and that the proposals were not properly evaluated. Greyhound states that it has requested a debriefing, and requests that it be allowed to further supplement its protest following that debriefing.

Although Greyhound argues that the actual award of the contract now provides a valid basis of protest, which is timely raised because the firm's latest submission has been filed within 10 working days of knowledge of that award, the argument is without merit. We do not view this latest submission as other than an attempt to reassert an objection to the agency's conduct of the procurement which was properly dismissed as untimely in the first instance.

The fact remains that Greyhound knew as of June 11 of the specific areas of its proposal which the agency considered to be particularly weak, and which caused the agency to reject the proposal as technically unacceptable. This action, and not the agency's ultimate award to the incumbent, provided Greyhound with its basis of protest, which was required to be protested no later than 10 working days after June 11. See Modern Aircraft Service, B-217352, Mar. 27, 1985, 85-1 CPD ¶ 358. Therefore, the firm's latest submission is untimely as well and will not be considered.

Even though Greyhound has yet to have its debriefing, this is of no consequence with regard to the timeliness issue, since Greyhound indisputably learned of the specific grounds of protest regarding the agency's allegedly improper rejection of its proposal more than 4 months ago. Cf. Technical Services Corp., B-216408.2, June 5, 1985, 85-1 CPD ¶ 640 (protest filed within 10 working days after debriefing is timely where the protester does not learn of its specific protest grounds until the debriefing).

The protest is dismissed.


Ronald Berger
Deputy Associate
General Counsel